

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ALI-SEENA SAHEEM,
Petitioner,

Case No. 1:16-cv-491

vs.

Black, J.
Bowman, M.J.

UNITED STATES ATTORNEY
GENERAL,
Respondent.

**REPORT AND
RECOMMENDATION**

This *pro se* habeas corpus action brought pursuant to 28 U.S.C. § 2241 is before the Court on petitioner's motion to withdraw his petition filed before respondent has entered an appearance in this case. (Doc. 4).

Rule 12 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254, provides: "The Federal Rules of Civil Procedure, to the extent they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules." Fed. R. Civ. P. 41(a)(1) provides that a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves an answer; the dismissal shall be "without prejudice" unless the notice states otherwise. In addition, Fed. R. Civ. P. 41(a)(2) provides that the Court may order the dismissal of an action "at the plaintiff's request" on "terms that the court considers proper."

Pursuant to Fed. R. Civ. P. 41, this Court **RECOMMENDS** that petitioner's motion to withdraw his petition (Doc. 4) be **GRANTED** and that the petition for writ of habeas corpus filed under 28 U.S.C. § 2241 (Doc. 1) be **DISMISSED** without prejudice.

IT IS THEREFORE RECOMMENDED THAT:

Petitioner's motion to withdraw his petition for writ of habeas corpus (Doc. 4) be

GRANTED, and the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. 1) be
DISMISSED without prejudice.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

cbc